

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Reese Crispen	Team: Squad #8	CCRB Case #: 201501278	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/23/2015 9:21 AM	Location of Incident: § 87(2)(b)	Precinct: 77	18 Mo. SOL 8/23/2016	EO SOL 8/23/2016	
Date/Time CV Reported Mon, 02/23/2015 1:06 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/23/2015 1:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Borukhov	16023	933554	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Borukhov	Abuse: PO Peter Borukhov threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Peter Borukhov	Abuse: PO Peter Borukhov seized § 87(2)(b)'s property.	§ 87(2)(b)

### Case Summary

On February 23, 2015, at approximately 9:21 a.m., § 87(2)(b) drove his truck into the Autozone parking lot at the corner of Atlantic Avenue and Utica Avenue, in Brooklyn. He pulled into the Autozone parking lot because the engine oil cooler in his truck malfunctioned, and his indicator beeped to say that his truck was out of oil. He pulled into the first spot that he could see, a handicap spot, and shut his truck off immediately because he did not want to cause serious damage to his engine. Without seeing that § 87(2)(b) was in the vehicle, PO Peter Borukhov from the 77<sup>th</sup> Precinct arrived and wrote § 87(2)(b) summons number § 87(2)(b) for § 87(2)(b). § 87(2)(b) introduced himself to PO Borukhov and contested the ticket, which angered PO Borukhov. Immediately before leaving the scene, PO Borukhov allegedly threatened to arrest § 87(2)(b) if § 87(2)(b) followed him (**Allegation A**), and allegedly confiscated § 87(2)(b)'s PBA card (**Allegation B**).

### Mediation, Civil, and Criminal Histories

§ 87(2)(b) declined mediation.

On March 27, 2015, a FOIL request was submitted to the NYC Comptroller's Office to determine if § 87(2)(b) filed a Notice of Claim in regards to this incident. The results will be included in this case file upon receipt (encl. 17).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

(encl. 15).

### Civilian and Officer CCRB Histories

- PO Borukhov has been a member of the service for eleven years and he has had one allegation against him substantiated. As part of case number 200701470, PO Borukhov was found to have refused to provide his name/shield number (encl. 2a)
- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3).

### Investigative Findings and Recommendations

#### Allegation A – Abuse of Authority: PO Peter Borukhov threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that after PO Borukhov issued the summons to him, he exited his car to enter the Autozone to purchase oil. Before walking into Autozone, however, he exchanged more words with PO Borukhov to argue the summons. PO Borukhov then said to him, "Do not follow me. If you follow me, I will lock you up!" PO Borukhov said this to § 87(2)(b) despite the fact that § 87(2)(b) did nothing to indicate to PO Borukhov that he had any intention or reason to follow him (encl. 5c).

PO Borukhov testified that he had no recollection of this specific incident, despite being interviewed less than a month after the incident, and despite being shown a picture of § 87(2)(b) and § 87(2)(b)'s car parked in front of the Autozone. The reason PO Borukhov did not remember was because he writes approximately twenty summonses per day, and many of them are for parking violations. However, he stated that, while dealing with parking violations, he has arrested individuals because they have jumped out at him, and multiple times, has had an

individual exit his car and try to fight with him. To prevent that from happening, PO Borukhov usually instructs individuals to stay in their vehicle while he places the summons and leaves. He also typically gives the preemptive warning, “Don’t follow me.” Then, if the individual comes towards his car, he will threaten him with arrest (encl. 12b).

§ 87(2)(g)

In Police Department v. Grossman, the court found that the officer abused his authority when he threatened to arrest an individual in the absence of probable cause. OATH Index No. 2382/00R (2000) (encl. 1p). Moreover, as outlined in People v. Square, “The mere expression that one feels aggrieved by the police—even when uttered in a loud voice—cannot constitute an offense. After all, ‘[t]he freedom of individuals to verbally oppose or challenge police action without thereby risking arrest is one of the principle characteristics by which we distinguish a free nation from a police state’” 872 N.Y.S.2d 693 (encl. 1t).

§ 87(2)(g)

§ 87(2)(g)

**Allegation B – Abuse of Authority: PO Peter Borukhov seized § 87(2)(b) s property.**

§ 87(2)(b) testified that PO Borukhov asked to see his identification. § 87(2)(b) complied, and presented his identification to the officer, along with a PBA card that belonged to his brother. PO Borukhov told § 87(2)(b) that he was not interested in the PBA card. However, after threatening § 87(2)(b) with arrest, PO Borukhov changed his mind and said to § 87(2)(b) “As a matter of fact, gimme that damn card!” and took § 87(2)(b) s brother’s PBA card, which § 87(2)(b) had in his hand. Without saying anything else, PO Borukhov then went to his vehicle and drove away (encl. 5c).

PO Borukhov testified that he had no recollection of the incident. He did not remember being given a PBA card by the car owner implicated in summons number § 87(2)(b), which he acknowledged writing. As an officer that deals primarily with parking summonses, he is not familiar with being given PBA cards. If PO Borukhov were to be given an invalid PBA card, he would not know what to do with it per procedure, because he never deals with PBA cards. He testified, additionally, that he never said to the car owner, “Gimme that damn card” (encl. 12b).

Autozone's loss prevention department was contacted in order to obtain video footage of the incident. It was revealed that there was no working video camera focused outside the particular Autozone location (encl. 16d).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

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Pod: 8

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date